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*Attorneys for Defendant Eric Glen Geiger, Sr.*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

DELWYN LEWIS and JILLIAN ALVAREZ,

Plaintiffs,

vs.

CELADON TRUCKING SERVICES, INC.,  
ERIC GLEN GEIGER, SR., JOHN DOES (1-  
10) (said names being fictitious and unknown  
persons), and ABC CORP (1-20) (said names  
being fictitious and unknown entities),

Defendants.

: **SUPERIOR COURT OF NEW JERSEY**

: **LAW DIVISION, UNION COUNTY**

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: Docket No.: UNN-3980-17

:

: Civil Action No.

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**NOTICE OF REMOVAL**

**Document Filed Electronically**

**NOTICE OF REMOVAL BY DEFENDANT ERIC GLEN GEIGER, SR.**

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Eric Glen Geiger, Sr., ("Defendant") hereby removes to this Court the above-captioned matter, which is pending in the Superior Court of New Jersey, Law Division, Union County, under Docket No. UNN-L-3980-17. In support of this Notice of Removal, Defendants state the following:

**NATURE OF THE ACTION**

1. This is a personal injury action filed on November 8, 2017, by Plaintiffs Delwyn Lewis and Jillian Alvarez, ("Plaintiffs"), citizens of New York. Plaintiffs allege they suffered

multiple and severe personal injuries due to a collision between their motor vehicle and a commercial vehicle owned by improperly named defendant, Celadon Trucking Services, Inc., and operated by Eric Geiger. Plaintiffs filed their Complaint against Defendants in the Superior Court of New Jersey, Union County. As set forth below, this case is removable to federal court because Plaintiffs, are citizens of New York, Defendant Eric Geiger is a citizen of Maryland and Defendant Celadon Trucking Services, Inc., is a citizen of Indiana, and the amount in controversy exceeds \$75,000, exclusive of interest and costs. Defendant accordingly provides notice of the removal of this action to federal court.

**COMPLETE DIVERSITY**

2. Upon information and belief, at the time this action was filed and at all times since, Plaintiffs were and are citizens of New York. *See* paragraphs 1 and 2 of the Complaint, attached hereto as Ex. A.

3. At the time this lawsuit was filed and at all times since, Eric Glen Geiger, Sr., was and is a citizen of Maryland.

4. At the time this lawsuit was filed and at all times since, Celadon Trucking Services, Inc., was and is a corporation organized under the laws of the State of Delaware with its principal place of business in Indiana. Therefore, at the time this action was filed and at all times since, Celadon Trucking Services, Inc, was a citizen of Delaware and Indiana. 28 U.S.C. § 1332(c)(1).

5. Accordingly, because Plaintiffs are not citizens of the same state as Defendants, the complete diversity requirement is satisfied.

**AMOUNT IN CONTROVERSY**

6. The \$75,000 amount-in-controversy requirement is readily satisfied. *See* 28 U.S.C. §§ 1332(a). As the Supreme Court has recently clarified, a notice of removal to federal court under 28 U.S.C. § 1446(a) need only include a plausible allegation that the amount in controversy exceeds the jurisdictional threshold and need not include actual evidence establishing that amount. *See Dart Cherokee Basin Operating Co., LLC v. Owens*, 135 S. Ct. 547, 554 (2014).

7. Here, it is apparent from the face of the Complaint, and the serious injuries alleged, that the amount in controversy in this action exceeds \$75,000. Plaintiffs allege they sustained "severe, permanent, painful injuries incurred and will incur medical expenses in an effort to cure themselves of their injuries and were otherwise prevented from attending to their regular pursuits and duties." Ex. A ¶¶8. Plaintiffs seek a " judgment against the defendants" for "compensatory damages, interest, costs of suit, attorney's fees, and such other relief as the Court may deem equitable and just. *Id.*, unnumbered "Wherefore" paragraph at the end of Count One, all of which are properly included in the amount in controversy. Where, as here, Plaintiffs allege serious bodily injuries and/or chronic or permanent medical conditions, courts have readily found that the amount-in-controversy requirement is satisfied. *See Montilus v. Munoz*, Civil Action No. 09-4143 (SRC), 2009 WL 3246609, at \*2 (D.N.J. Oct. 6, 2009); *Raspa v. Home Depot*, 533 F. Supp. 2d 514, 522 (D.N.J. 2007); *Kolokowski v. Crown Equip. Corp.*, No. Civ.A.05-4257, 2005 WL 3320777, at \*3 (D.N.J. Dec. 6, 2005). Accordingly, it is evident from the face of the Complaint that the amount in controversy exceeds \$75,000.

Defendant does not, however, concede that Plaintiffs would be entitled to any of the relief sought in the Complaint. *See Kelderman v. Remington Arms Co.*, 734 F. Supp. 1527, 1528 (S.D.

Iowa 1990) (rejecting a plaintiff's attempt to "place [a] defendant in the awkward position of embracing a concession on the important issue of damages," to establish jurisdiction, noting that a "defendant need not go that far"). Indeed, Defendant specifically denies that Plaintiffs are entitled to recover any damages.

### **REMOVAL PROCEDURES**

8. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is timely filed no later than 30 days of service on Defendant Eric Glen Geiger, Sr., who was served on November 12, 2017. Defendant Celadon Trucking Services, Inc., improperly named, has not been properly served as of the filing of this pleading.

9. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, orders, and other documents on file with the Superior Court of New Jersey for Union County are attached hereto. *See* Ex. A.

10. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served upon counsel for Plaintiffs and a copy is being filed with the Clerk of the Court for the Superior Court of New Jersey, Law Division, Union County.

11. This action, filed in Superior Court of New Jersey Law Division, Union County, is being removed to the "district and division embracing the place where such action is pending." 28 U.S.C. § 1441(a).

12. No Defendant is a citizen of the State of New Jersey, the State where this action was brought. 28 U.S.C. § 1441(b).

13. Defendant reserves the right to amend or supplement this Notice of Removal.

14. If any question arises as to the propriety of the removal of this action, Defendant requests the opportunity to present a brief and request oral argument in support of removal.

WHEREFORE, Defendant respectfully removes this action to this Court from the Superior Court of New Jersey, Law Division, Union County, pursuant to 28 U.S.C. § 1441.

Respectfully submitted,

PORZIO, BROMBERG & NEWMAN, P.C.

By: *s/ Roy Alan Cohen*

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Dated: December 12, 2017

*Attorneys for Defendant Eric Glen Geiger, Sr.*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served upon counsel for Plaintiffs, by Facsimile and Regular Mail, addressed as follows:

Michael T. Madaio, Esq.  
149 New Dorp Lane  
Staten Island, NY 10306  
*Attorneys for Plaintiff*

Dated: December 12, 2017

/s/ Roy Alan Cohen  
Roy Alan Cohen (RC1922)  
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*Counsel for Defendant Eric Glen Geiger, Sr.*